

REMARKS

Claims 1-37 are pending in this application. Claims 5-24 have been withdrawn. Claims 1, 2, 25, 28, and 30 have been rejected under 35 U.S.C. § 102(e). Claims 31-37 are allowed. Claims 3, 4, 25-27, and 29 have been objected to but have been indicated as allowable if rewritten in independent form. Note that the Office Action referred to claim 25 both as being rejected under 35 U.S.C. § 102(e) and as being objected to as a dependant claim. Claims 1, 2, 25, 28, 30, and 31 have been amended with no new matter having been added. Claims 3, 4, 26, 27, and 29 have been rewritten in independent form. New claims 38-53 have been added. Claims 5-24 have been cancelled.

Rejections under 35 U.S.C. § 102(e)

Claims 1, 2, 25, 28, and 30 have been rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,277,648 to Colpan (hereinafter “Colpan”). Applicants traverse this rejection.

A claim is anticipated only if each and every element as set forth in the claim is found either expressly or inherently described in a single prior art reference. MPEP §2131. Applicants believe that Colpan does not anticipate the present invention because it does not set forth at least one of the claim elements of independent claims 1, 28, and 30.

A. Independent claim 1

Claim 1 has been amended to include a transfer film on the surface of the carrier such that upon mating at least a portion of the transfer film is included within the chamber. Colpan does not disclose, teach, or suggest the use of a transfer film. Claim 1 has also been amended by replacing the term “introduced the sample to” with the term “positioned a biological sample within” in line 9 and to clarify that upon mating, the biological sample is positioned within the chamber. Applicants believe that claim 1 and its respective independent claims are in condition for allowance as written.

B. Independent claims 28 and 30

The Office rejects claims 28 and 30 stating “figures 3-8 also show dual chambers, one chamber having two ports (inlet and outlet) and the first chamber being connected to one of the ports.” Claims 28 and 30 claim both a biological sample processing system and a sample carrier. If the Office contends that the cylindrical hollow unit (40) is the sample carrier, then the cylindrical hollow body (1) mated to the presumed centrifuge tube would constitute the biological sample processing system. If this were the case, then the chamber formed upon mating the cylindrical hollow unit (40) to the cylindrical hollow body (1) would be the “first chamber”, and in accordance with the currently amended versions of claims 28 and 30, the mating would close the opening on such first chamber. Claims 28 and 30 also specify a first port and a second port, but Colpan’s figures 3-8 show only one opening from the cylindrical hollow body (1) once it is closed with the cylindrical hollow unit (40). Therefore, applicants believe that Colpan does not disclose, teach, or suggest each and every element of claims 28 and 30.

Claim’s 28 and 30 have also been amended to replace the phrase “introduced the sample to” with the phrase “positioned a biological sample within” in order to clarify that the mating of the device and the carrier results in positioning the sample within the first chamber which Colpan does not disclose, teach, or suggest.

C. Dependent Claim 25

The Office Action refers to claim 25 both as having been rejected under 35 U.S.C. §102(e) in Claim Rejections, paragraph 2, and as allowable if rewritten in independent form in Claim Rejections, paragraph 4. As a result of the inconsistency, claim 25 has not been rewritten in independent form, but applicants would agree that claim 25 is allowable if written in independent form including all of the limitations of claim 1 in the previous action. Applicants will rewrite the claim in such manner if instructed to do so by the Office in the next action. Alternatively, if the Office follows the 35 U.S.C. §102(e) rejection route, then applicants believe that claim 25 is now allowable as dependant on currently amended claim 1. Claim 25 has been amended to replace the term “is” with the term “comprises”.

D. Dependent claim 2

Applicants believe that dependent claim 2 is now allowable as it is dependent on the currently amended claim 1.

Allowable Subject Matter

Claims 3, 4, 25-27, and 29 have been objected to as being dependent upon a rejected base claim, but have been indicated to be allowable if rewritten in independent form containing all of the limitations of the base claim and any intervening claims. Accordingly, applicants have rewritten claims 3, 4, 26, 27, and 29 in independent form incorporating all of the limitations of the base claim and any other intervening claim. Note that as described above, due to the inconsistency in the Office Action, applicants have not rewritten claim 25, but will do so if requested in the next action. Therefore, applicants believe claims 3, 4, 25-27, and 29 are in condition for allowance.

Allowed claims

Thank you for the allowance of claims 31-37. Claim 37 has been amended to clarify that the chamber which is formed upon mating is the first chamber. In the 13th line of the claim there was a reference to the “reaction” chamber, however, the claim has no other reference to a reaction chamber. In addition, the chamber into which the sample is “introduced” in line 13 is the first chamber referred to in line 3, and thus, the claim has been amended to make this clear. Applicants believe that these changes clarify the claims without altering the scope of the claim as allowed.

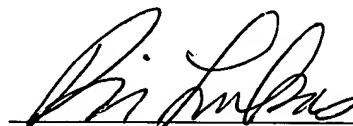
In view of the foregoing remarks, applicants respectfully submit that the application is in a condition for allowance, and action toward that end is earnestly solicited. The Office is invited to contact the applicant’s representative at the number below to facilitate prosecution of this application.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time.

Respectfully submitted,

Dated: May 25, 2004

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